IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6331 OF 2005

M/s.Sainath Construction : Petitioner

V/s.

The Collector, Pune & Anr. : Respondents

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Mr.Suresh M. Sabrad for the petitioner.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for the respondents.

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CORAM : S.A. BOBDE, J.

September 23, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Palekar, the learned Asstt. Govt. Pleader, waives service of rule on behalf of the respondents.

Heard by consent.

2. The petitioner is aggrieved by the imposition of condition no.8 while granting it permission to excavate sand. The said condition reads as follows:-

"8 The boat or yari will not be allowed to be used for the excavation of sand.

> Similarly, the excavation of sand under the river bed is allowed maximum upto 5 ft. If the excavation is found more than 5 ft., the said excavation is to be treated as unauthorised and on that penal action will be initiated."

3. It appears that other parties have been permitted to use the aforesaid equipment. The question of granting similar permission to similarly situated people was decided by a Division Bench of this Court in Writ Petition no.533 of 2005 and thereafter by a single Judge in Writ Petition no.4160 of 2005. In view of the aforesaid decision, the respondent no.1 is directed to reconsider the petitioner's case after hearing it. The respondent no.1 is directed to pass a reasoned order. The petitioner is at liberty to make a prayer for alternate site which may also be considered. The respondent no.1 shall pass an order within four weeks from the date the petitioner appears before him. The petitioner is directed to appear before the respondent no.1 on 27.9.2005.

4. The rule is made absolute in the above terms.

S.A. BOBDE, J.